Seizure of Urine Enabling Learning Objectives

1. **Given a description of the test determine the test type.**
2. **Given a scenario determine whether or not probable cause exists.**

Seizure of Urine

- Upon Probable Cause
- Inspections
- Fitness for Duty
- Consent
- Rehabilitation
- Medical Catheterization

Probable Cause (PO)

- What is “Probable Cause”?
  - Probable Cause exists “when there is a reasonable belief that the person, property or evidence sought is located in the place or on the person to be searched.” Rules of Courts Martial (RCM) 315(f)(2).
  - Basically, a commander must have reliable information that a Soldier used a drug and the information must be given to the commander within the time frame that a particular drug can still normally be found in a persons urine that used that drug (retention time).

Probable Cause (PO)

- **Examples:**
  - **A commander receives an unknown note that SPC Snuffy was smoking marijuana at a party on Saturday –Not probable cause because the note cannot be verified as a reliable source.**
  - **A commander is told by two SFC's that they saw SPC Snuffy taking Ecstasy at a concert 3 weeks ago – this is not probable cause because although the information is reliable the drug is only found in the urine for about 72 hours after use.**
  - **A SFC states that he saw SPC Snuffy smoking marijuana at a concert 2 nights ago – This is probable cause.**

Probable Cause (PO)

- Commanders should always consult with their local SJA office prior to ordering a probable cause test. The SJA will let the commander know if he/she truly has probable cause or not.

Competence for Duty or Probable Cause

- **Note: Many commanders call both a fitness for duty test and a probable cause test a command direct. If the commander tells you to "Collect a command direct on SPC Snuffy"; then you should ask the commander if he/she means a probable cause or a competence/fitness for duty. It is extremely important to code the test properly.**

Fitness or Competence for Duty (CO)

- During an evaluation of a Soldier, the commander may direct a urinalysis to determine a Soldier's competence for duty or need for counseling, rehabilitation, or other medical treatment.
- The commander questions the Soldier's competence for duty based on unusual, peculiar, bizarre, or uncharacteristic behavior, breaches of discipline, or other similar behavior.
- Based on less than probable cause
- Positive test results are covered by the Limited Use Policy.

Inspections

- A commander may direct the seizure of urine, like other evidence, based upon the authority to inspect to determine the health and welfare of unit members. Such as:
  - May be 100% of unit (IU)
  - Parts of the unit based on random selection such as a monthly 10% test (IR)
  - Selected individuals based on a commanders written policy that is equitable to all Soldiers (IO). Example: Policy of testing all Soldiers upon return from AWOL status or after 15 or more days leave are valid inspections.

Consent or Voluntary (VO)

- Consent tests must be totally voluntary. If the commander says “you either volunteer or I will order you to give a specimen”, then it is NOT a voluntary test.
- If Soldier asks “what will happen if I don’t consent?”, then the Soldier may be told that the commander may order a test anyway. This is still a voluntary test.
- A refusal to consent by the Soldier does not imply that the Soldier used drugs. The refusal has no bearing on the Soldiers presumed innocence or guilt. It does not give the commander probable cause.

Rehabilitation Test

- A rehabilitation test is ordered as part of a Soldier's enrollment and treatment in the ASAP.
- The frequency and quantity of rehabilitation tests are determined by the commander and the Soldier's counselor.
- Covered by the Limited Use Policy.

Catheterization

- Forced extraction of urine purely for a drug test is prohibited. Neither the commander nor a physician can catheterize a Soldier to obtain a urine sample for a drug test.
- However, when it is determined by a physician that a urine specimen is required for a valid medical procedure, then catheterized urine may also be collected for a required drug test.